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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,909	07/21/2003	Scott L. Hamilton	716-01-PA	5355
22145	7590	07/27/2006	EXAMINER	
KLEIN, O'NEILL & SINGH, LLP 43 CORPORATE PARK SUITE 204 IRVINE, CA 92606			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,909

Applicant(s)

HAMILTON, SCOTT L.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-12 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-12 and 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 5/16/2006.

Drawings

2. The drawings were received on 5/16/2006. These drawings are acceptable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10-12, 14-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 12 and 21, there still is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, in claim 12, the preamble clearly indicates that a subcombination is being claimed, e.g., "an equipment shelf mounting bracket assembly for use in combination with an equipment rack of a type that includes...., the rails having a plurality of through-apertures...., the mounting bracket comprising" This language would lead the examiner to believe that the applicant intends to claim only the subcombination of a "mounting bracket assembly", the equipment rack and its elements being only functionally recited. This presents no problem as long as the body of the claims also refers to the equipment rack and its elements functionally. The problem arises when the equipment rack and/or its elements is positively recited, such as at the end of the claim "so as to secure the rail

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between the second flange of the carrier..., with each of the pins disposed in a corresponding one of the rail apertures". The examiner cannot be sure if applicant's intent is to claim merely the mounting bracket assembly or the mounting bracket assembly in combination with the equipment rack. Applicant is required to amend the claim such that the language of the claim is consistent with the intent. For the purpose of this examination, the examiner is considering that the claims are drawn to the subcombination of the bracket mounting assembly. Claim 15, (1) in order to clearly define the metes and bounds of the claim invention, line 2 "a second right angle flange" should be "another second right angle flange", (2) line 2, "the first end" lacks antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. Claims 10-12, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,659,577 to Lauchner in view of Brock.

Lauchner discloses an equipment shelf mounting bracket assembly in combination with an equipment rack of a type that includes opposing pairs of vertical front and rear rails, the rails having a plurality of through-apertures 56 arranged in groups of three for positioning the shelf at a selected height within the rack, the mounting bracket comprising: a track assembly, including a pair of elongated, U-shaped, inner and outer tracks, the inner track nesting within the outer track for relative longitudinal telescopic sliding movement therein; means for clamping the inner track to the outer track at a selected length of the track assembly and thereby preventing relative longitudinal movement between the two tracks; a first right-angle flange 34 (such as shown in Figs 4 & 7) disposed at each of a respective one of a rear end of the inner track and a front end of the outer track; a pair of elongated, axially symmetrical alignment pins 44 mounted on each of the flanges, each pin 44 having a center and being arranged in inward-facing opposition to a corresponding pin on the opposite flange, and with the centers of the pins in respective ones of the pairs being spaced at a distance that is equal to the distance between respective centers of a first and a third one of the rail apertures 56 in a selected group of three thereof; a latching assembly 94 having a second right angle flange at front end thereof (see attached drawing sketches of Fig 7), wherein each of the rail apertures comprises a large round opening, and wherein each alignment pin 44 comprises, such as shown in Fig 8, a pair of tandem, concentric cylinders, a smaller one of the cylinders having a conical leading tip and a

larger one of the cylinders having a shoulder tapering into the smaller cylinder. The different being that Lauchner does not disclose the latching assembly including a carrier slidably captivated on the outer track for relative longitudinal sliding movement thereon, and means for urging the second flange of the carrier toward the first flange at the front end of the outer track.

Brock et al discloses a bracket assembly comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a bracket having a longitudinal main portion and an end portion 26 substantially perpendicular to the main portion; a latching assembly 40 including a carrier slidably captivated on the outer track for relative longitudinal sliding movement; an elastic member 54 coupled to the main portion of the bracket and the latching assembly and configured to bias the latching assembly toward the first position, wherein the end portion of the bracket has at least one tab 62 that is configured to engage with a rail, the first end of the latching assembly includes a latch projection 59, such as shown in Fig 2, configured to securing the latching assembly to the rail when the latching assembly is in the first position, and a flange 58 coupled to the latch for releasing the latch from the rail by movement of the latching assembly toward the second position, the latch projection is configured to sit within an opening in the rail to secure the latching assembly to the rail, and the elastic member 54 increases in length as the latching assembly moves from its first position to its second position; wherein the latch assembly provides a secured and quick mounting and removal of the bracket assembly relative to the rail. Therefore, it would have been obvious to modify the structure of Lauchner by providing the latch assembly with a

carrier slidably captivated on the outer track for relative longitudinal sliding movement thereon, and means for urging the second flange of the carrier toward the first flange of the front end of the outer track in order to provide a secured and quick mounting and removal of the bracket assembly relative to the rail, as taught by Brock et al, since both teach alternate conventional bracket mounting assembly structure, used for the same intended purpose, thereby providing structure as claimed.

Allowable Subject Matter

8. Claims 14-19, and 24-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 5/16/2006 have been fully considered but they are not persuasive.

10. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., so as to secure the rail between the second flange of the carrier and the first flange at the front end of the outer track, with each of the pins disposed in a corresponding one of the rail apertures) are not positively recited in the rejected claim(s). As stated on page 10 of the above noted amendment, applicant clearly stated that the claims are drawn to the subcombination of a mounting bracket assembly only. Although the claims are interpreted in light of the specification, limitations from the specification are not read

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

11. In response to applicant's argument on page 11 that none of the cited references suggests a carrier having a flange being urged toward a corresponding track flange, the examiner takes the position that Lauchner, in view of Brock, teaches said limitation.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
July 23, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



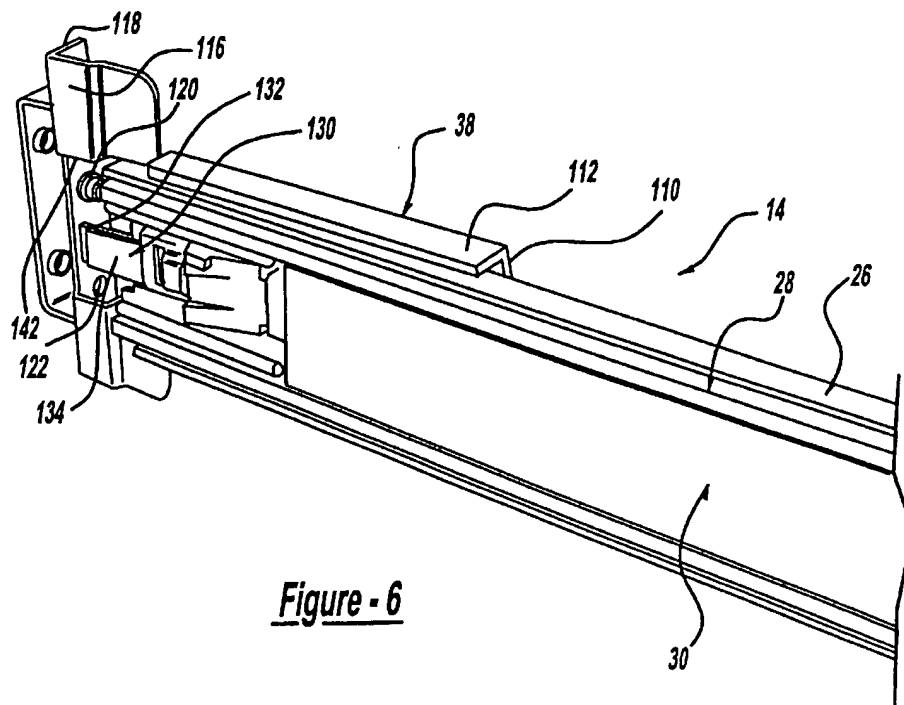


Figure - 6

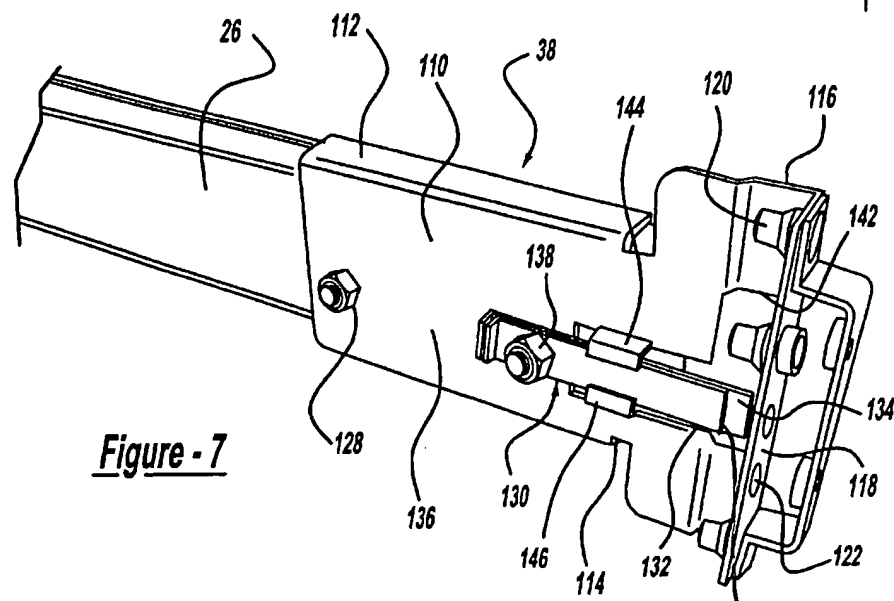


Figure - 7

second right-angle
flange

Approved!
 HNT 2/23/06

2/8

FIG. 3

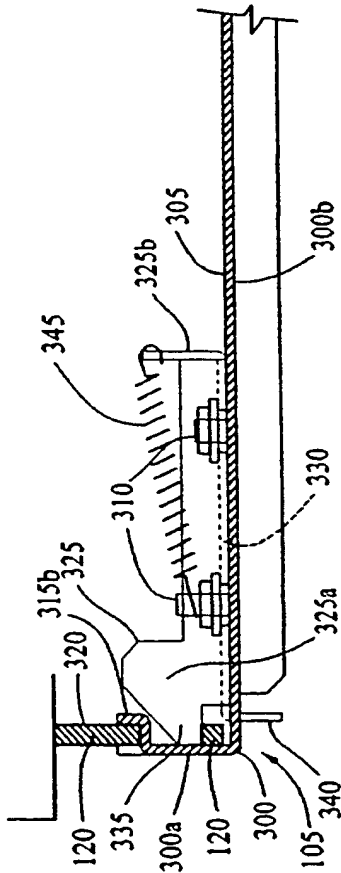


FIG. 4

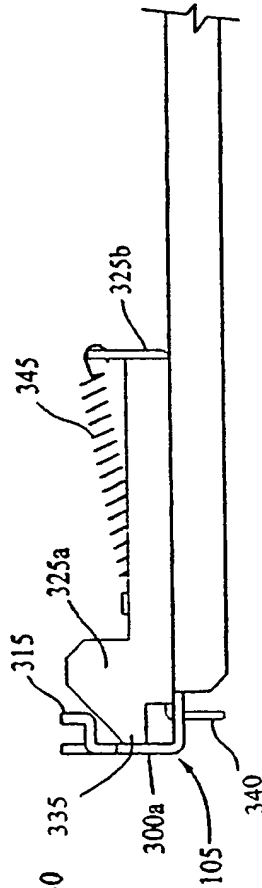


FIG. 5

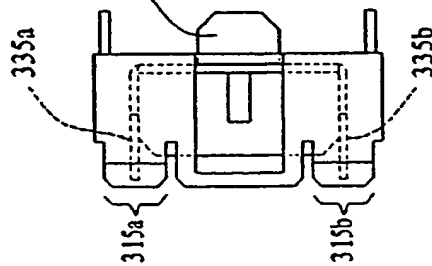
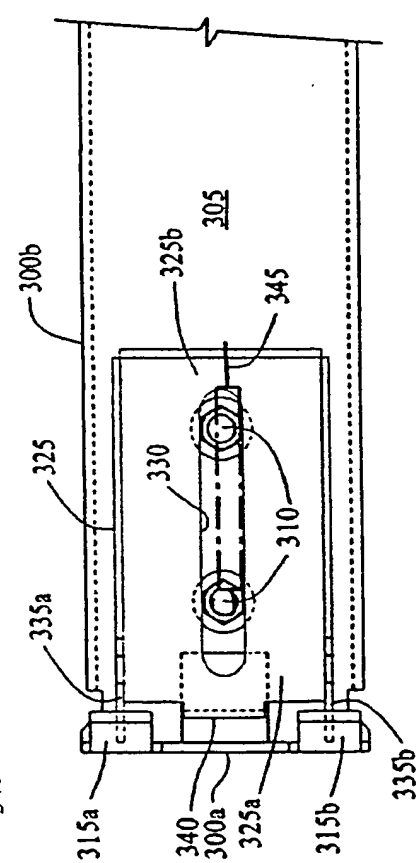


FIG. 5